



State of Washington
Department of Revenue

Excise Tax Advisory

Excise Tax Advisories (ETA) are interpretive statements issued by the Department of Revenue under authority of RCW 34.05.230. ETAs explain the Department's policy regarding how tax law applies to a specific issue or specific set of facts. They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.

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THIS ETA IS CANCELLED EFFECTIVE APRIL 21, 2003

EXCHANGE AGREEMENTS INVOLVING INVENTORY

Revised: December 31, 1992

This Excise Tax Bulletin explains the Department's position in regards to agreements involving the exchange of inventory between suppliers. This is a clarification and not a change in the Department's position.

Businesses engaged in the selling and distributing of fungible products often enter into exchange agreements. Fungible products are products which lose their physical identity to the point that they cannot be distinguished from items of like kind. This includes, but is not limited to, gasoline, bulk oil products, grains, logs, wood chips, fruit, and vegetables. Under typical exchange agreements, these businesses are required to furnish products to other distributor companies, sometimes receiving payment in kind at a later date. Exchange agreements may require the business to arrange for direct delivery from the producer company to the third party distributor. In some cases, actual title and/or possession of the product may pass directly from the producer company, to the third party distributor.

The Department has concluded that such transactions are sales within the language and intent of RCW 82.04.040, culminating in the "... transfer of the ownership of, title to, or possession of property for a valuable consideration"

These transactions also constitute doing "business," as that term is defined in RCW 82.04.140. RCW 82.04.140 provides that:

"Business" includes all activities engaged in with the object of gain, benefit or advantage to the taxpayer or to another person or class, directly or indirectly.

ETBS have been made Excise Tax Advisories, and have retained their old number. Advisories with a 2 (plus three digits) are new advisories, ETBs that have been revised and readopted after review under the Department's regulatory improvement program, or advisories that have been revised and/or readopted.

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Such transactions constitute business activity, notwithstanding that they may result in no profit. Unless the transactions qualify as accommodation sales (refer to WAC 458-20-208), they are subject to the business and occupation tax. (See Time Oil Co. v. State, 79 Wn 2d 143 (1971)).